

Introduced by Committee on Public Employment and Retirement (Senators Ortiz (Chair), Baca, Karnette, and Lewis)

February 26, 1999

An act to amend Sections 22000, 22007, 22008, 22119.2, 22128, 22134, 22135, 22136, 22138.5, 22147.5, 22148, 22161, 22163, 22306, 22327, 22400, 22455.5, 22457, 22458, 22459, 22502, 22503, 22504, 22508.5, 22514, 22516, 22601.5, 22602, 22604, 22714, 22717, 22803, 22805, 22820, 22826, 22955, 23003, 23006, 23201, 23702, 23851, 24101.5, 24201, 24212, 24216.5, 24300, 24305.5, 24306, 24307, 24600, 26135, 26215, 26301, 26303, 26401.5, 26504, 26603, 26604, 27410, and 44494 of, to add Sections 22104.5, 22106.1, 22106.2, 22115.5, 22156.1, 22156.2, 22156.5, 22161.2, and 22170.5 to, to repeal and add Section 24205 of, the Education Code, and to amend Section 20639 of the Government Code, relating to the State Teachers' Retirement System.

LEGISLATIVE COUNSEL'S DIGEST

SB 1074, as introduced, Committee on Public Employment and Retirement. State Teachers' Retirement System.

The State Teachers' Retirement Law prescribes the retirement benefits of eligible teachers in the public schools who are participants in the Defined Benefit Program and the Cash Balance Program. Those programs were separately administered by the Teachers' Retirement Board until they were merged by Chapter 1048 of the Statutes of 1998.

This bill would revise various provisions to reflect that merger, make related technical changes, and update various

provisions. The bill would define various terms for purposes of benefit computations.

The bill would provide that any other act enacted by the Legislature during 1999 that affects any section of the bill shall prevail over the provisions of the bill.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 22000 of the Education Code is
2 amended to read:

3 22000. This part ~~shall be known and may be cited as~~
4 ~~the State Teachers' Retirement Law~~ and may be known
5 and cited as the E. Richard Barnes Act *and together with*
6 *Part 14 (commencing with Section 26000) shall be known*
7 *as the Teachers' Retirement Law.*

8 SEC. 2. Section 22007 of the Education Code is
9 amended to read:

10 22007. The obligations of any member, or the
11 member's beneficiaries, to this system and the ~~plan~~
12 *Defined Benefit Program* continue throughout
13 membership, and thereafter until all of the obligations of
14 this system and the ~~plan~~ *Defined Benefit Program* to or
15 in respect to the member or the member's beneficiaries
16 have been discharged.

17 SEC. 3. Section 22008 of the Education Code is
18 amended to read:

19 22008. For the purposes of payments into or out of the
20 retirement fund for adjustments of errors or omissions
21 *with respect to the Defined Benefit Program*, the period
22 of limitation of actions shall be applied, except as
23 provided in Sections 23302 and 24613, as follows:

24 (a) No action may be commenced by or against the
25 board, the system, or the plan more than three years after
26 all obligations to or on behalf of the member, former
27 member, or beneficiary have been discharged.

28 (b) If the system makes an error that results in
29 incorrect payment to a member, former member, or
30 beneficiary, the system's right to commence recovery

1 shall expire three years from the date the incorrect
2 payment was made.

3 (c) If an incorrect payment is made due to lack of
4 information or inaccurate information regarding the
5 eligibility of a member, former member, or beneficiary to
6 receive benefits under the plan, the period of limitation
7 shall commence with the discovery of the incorrect
8 payment.

9 (d) Notwithstanding any other provision of this
10 section, if an incorrect payment has been made on the
11 basis of fraud or intentional misrepresentation by a
12 member, beneficiary, or other party in relation to or on
13 behalf of a member, or beneficiary, the three-year period
14 of limitation shall not be deemed to commence or to have
15 commenced until the system discovers the incorrect
16 payment.

17 (e) The collection of overpayments under
18 subdivisions (b), (c), and (d) shall be made pursuant to
19 Section 24617.

20 SEC. 4. Section 22104.5 is added to the Education
21 Code, to read:

22 22104.5. “Actuary” means a person professionally
23 trained in the technical and mathematical aspects of
24 insurance, pensions, and related fields who has been
25 appointed by the board for the purpose of actuarial
26 services required under this part.

27 SEC. 5. Section 22106.1 is added to the Education
28 Code, to read:

29 22106.1. “Base days” means the number of days of
30 service required to earn one year of service credit.

31 SEC. 6. Section 22106.2 is added to the Education
32 Code, to read:

33 22106.2. “Base hours” means the number of hours of
34 creditable service required to earn one year of service
35 credit.

36 SEC. 7. Section 22115.5 is added to the Education
37 Code, to read:

38 22115.5. “Concurrent Retirement” entitles a member
39 of Defined Benefit Program to receive benefit for
40 Defined Benefit Program service if the member retires

1 from at least one of the retirement systems with which
2 the State Teachers' Retirement System has reciprocity as
3 defined in Section 22161.2: on the same date from both
4 systems; or on different dates provided that the member
5 does not perform creditable service subject to coverage
6 under the other system or the State Teachers' Retirement
7 System Defined Benefit Program between the two
8 retirement dates.

9 SEC. 8. Section 22119.2 of the Education Code is
10 amended to read:

11 22119.2. (a) "Creditable compensation" means
12 salary and other remuneration payable in cash by an
13 employer to a member for creditable service. Creditable
14 compensation shall include:

15 (1) Money paid in accordance with a salary schedule
16 based on years of training and years of experience for
17 creditable service performed up to and including the
18 full-time equivalent for the position in which the service
19 is performed.

20 (2) For members not paid according to a salary
21 schedule, money paid for creditable service performed
22 up to and including the full-time equivalent for the
23 position in which the service is performed.

24 (3) Money paid for the member's absence from
25 performance of creditable service as approved by the
26 employer, except as provided in paragraph (7) of
27 subdivision (b).

28 (4) Member contributions picked up by an employer
29 pursuant to Section 22903 or 22904.

30 (5) Amounts deducted by an employer from the
31 member's salary, including deductions for participation
32 in a deferred compensation plan; deductions for the
33 purchase of annuity contracts, tax-deferred retirement
34 plans, or other insurance programs; and deductions for
35 participation in a plan that meets the requirements of
36 Section 125, 401(k), or 403(b) of Title 26 of the United
37 States Code.

38 (6) Money paid by an employer in addition to salary
39 paid under paragraph (1) or (2) if paid to all employees
40 in a class in the same dollar amount, the same percentage

1 of salary, or the same percentage of the amount being
2 distributed.

3 (7) Any other payments the board determines to be
4 “creditable compensation.”

5 (b) “Creditable compensation” does not mean and
6 shall not include:

7 (1) Money paid for service performed in excess of the
8 full-time equivalent for the position.

9 (2) Money paid for overtime or summer school
10 service, or money paid for the aggregate service
11 performed as a member of ~~this plan~~ *the Defined Benefit*
12 *Program* in excess of one year of service credit for any one
13 school year.

14 (3) Money paid for service that is not creditable
15 service pursuant to Section 22119.5.

16 (4) Money paid by an employer in addition to salary
17 paid under paragraph (1) or (2) *of subdivision (a)* if not
18 paid to all employees in a class in the same dollar amount,
19 the same percentage of salary, or the same percentage of
20 the amount being distributed.

21 (5) Fringe benefits provided by an employer.

22 (6) Job-related expenses paid or reimbursed by an
23 employer.

24 (7) Money paid for unused accumulated leave.

25 (8) Severance pay or compensatory damages or
26 money paid to a member in excess of creditable
27 compensation as a compromise settlement.

28 (9) Annuity contracts, tax-deferred retirement
29 programs, or other insurance programs, including, but
30 not limited to, plans that meet the requirements of
31 Section 125, 401(k), or 403(b) of Title 26 of the United
32 States Code that are purchased by an employer for the
33 member and are not deducted from the member’s salary.

34 (10) Any payments determined by the board to have
35 been made by an employer for the principal purpose of
36 enhancing a member’s benefits under the ~~plan~~ *Defined*
37 *Benefit Program*. An increase in the salary of a member
38 who is the only employee in a class pursuant to
39 subdivision (b) of Section 22112.5 that arises out of an
40 employer’s restructuring of compensation during the

1 member's final compensation period shall be presumed
2 to have been granted for the principal purpose of
3 enhancing benefits under the ~~plan~~ *Defined Benefit*
4 *Program* and shall not be creditable compensation. If the
5 board determines sufficient evidence is provided to the
6 system to rebut this presumption, the increase in salary
7 shall be deemed creditable compensation.

8 (11) Any other payments the board determines not to
9 be "creditable compensation."

10 (c) Any employer or person who knowingly or
11 willfully reports compensation in a manner inconsistent
12 with subdivision (a) or (b) shall reimburse the plan for
13 any overpayment of benefits that occurs because of that
14 inconsistent reporting and may be subject to prosecution
15 for fraud, theft, or embezzlement in accordance with the
16 Penal Code. The system may establish procedures to
17 ensure that compensation reported by an employer is in
18 compliance with this section.

19 (d) The definition of "creditable compensation" in
20 this section is designed in accordance with sound funding
21 principles that support the integrity of the retirement
22 fund. These principles include, but are not limited to,
23 consistent treatment of compensation throughout the
24 career of the individual member, consistent treatment of
25 compensation for an entire class of employees, the
26 prevention of adverse selection, and the exclusion of
27 adjustments to, or increases in, compensation for the
28 principal purpose of enhancing benefits.

29 (e) This section shall be deemed to have become
30 operative on July 1, 1996.

31 SEC. 9. Section 22128 of the Education Code is
32 amended to read:

33 22128. "Early retirement" and "early retirement
34 age" mean age 55 years which is the ~~plan~~ age upon
35 attainment of which the member becomes eligible for a
36 service retirement allowance with reduction because of
37 age and without special qualifications.

38 SEC. 10. Section 22134 of the Education Code is
39 amended to read:

1 22134. (a) “Final compensation” means the highest
 2 average annual compensation earnable by a member
 3 during any period of three consecutive school years while
 4 an active member of the Defined Benefit Program or
 5 time during which he or she was not a member but for
 6 which the member has received credit under the
 7 Defined Benefit Program, except time that was so
 8 credited for service performed outside this state prior to
 9 July 1, 1944. The last three consecutive years of
 10 employment shall be used by the system in determining
 11 final compensation unless designated to the contrary in
 12 writing by the member.

13 (b) For purposes of this section, periods of service
 14 separated by breaks in service may be aggregated to
 15 constitute a period of three consecutive years, if the
 16 periods of service are consecutive except for the breaks.

17 (c) The determination of final compensation of a
 18 member ~~who is also a member of the Public Employees’~~
 19 ~~Retirement System, the Legislators’ Retirement System,~~
 20 ~~the University of California Retirement System, county~~
 21 ~~retirement systems established under Chapter 3~~
 22 ~~(commencing with Section 31450) of Part 3 of Division 4~~
 23 ~~of Title 3 of the Government Code, or the San Francisco~~
 24 ~~City and County Employees’ Retirement System who~~
 25 ~~also is a member of another retirement system with which~~
 26 ~~reciprocity exists pursuant to Section 22161.2 shall take~~
 27 into consideration the compensation earnable while a
 28 member of the other system, provided that all of the
 29 following exist:

30 (1) The member was in state service or in the
 31 employment of a local school district or of a county
 32 superintendent of schools.

33 (2) Service under the other system was not performed
 34 concurrently with service under ~~this plan~~ *the Defined*
 35 *Benefit Program*.

36 (3) Retirement under ~~this plan~~ *the Defined Benefit*
 37 *Program* is concurrent with the member’s retirement
 38 under the other system.

39 (d) The compensation earnable for the first position in
 40 which California service ~~is~~ *was* credited shall be used

1 when additional compensation earnable is required to
2 accumulate three consecutive years for the purpose of
3 determining final compensation under Section ~~23804~~
4 ~~23805~~.

5 ~~(e) The board may specify a different final~~
6 ~~compensation with respect to allowances based on~~
7 ~~part-time service performed prior to July 1, 1956, for~~
8 ~~which credit was given under this plan under board rules~~
9 ~~in effect prior to that date~~ *If a member has received*
10 *service credit for part-time service performed prior to*
11 *July 1, 1956, the member's final compensation shall be*
12 *adjusted for such service in excess of one year by the ratio*
13 *part-time service bears to full-time service.*

14 (f) The board may specify a different final
15 compensation with respect to disability allowances,
16 disability retirement allowances, family allowances, and
17 children's portions of survivor benefit allowances payable
18 on and after January 1, 1978. The compensation earnable
19 for periods of part-time service shall be adjusted by the
20 ratio that part-time service ~~has~~ bears to full-time service.

21 (g) The amendment of former Section 22127 made by
22 Chapter 782 of the Statutes of 1982 does not constitute a
23 change in, but is declaratory of, the existing law.

24 SEC. 11. Section 22135 of the Education Code is
25 amended to read:

26 22135. (a) Notwithstanding subdivisions (a) and (b)
27 of Section 22134, "final compensation" means the highest
28 annual compensation earnable by an active member who
29 is a classroom teacher who retires, becomes disabled, or
30 dies, after June 30, 1990, during any period of 12
31 consecutive months during his or her membership in the
32 ~~plan~~ *plan's Defined Benefit Program*. The last 12
33 consecutive months of employment shall be used by the
34 system in determining final compensation unless
35 designated to the contrary in writing by the member.

36 (b) Section 22134, except subdivision (a) of that
37 section, shall apply to classroom teachers who retire after
38 June 30, 1990, and any statutory reference to Section
39 22134 or "final compensation" with respect to a classroom

1 teacher who retires, becomes disabled, or dies, after June
2 30, 1990, shall be deemed to be a reference to this section.

3 (c) As used in this section, “classroom teacher” means
4 any of the following:

5 (1) All teachers and substitute teachers in positions
6 requiring certification qualifications who spend, during
7 the last 10 years of their employment with the same
8 employer which immediately precedes their retirement,
9 60 percent or more of their contract time each year
10 providing direct instruction. For the purpose of
11 determining continuity of employment within the
12 meaning of this subdivision, an authorized leave of
13 absence for sabbatical or illness, or other collectively
14 bargained or employer-approved leaves shall not
15 constitute a break in ~~employment~~ *service*.

16 (2) Other certificated personnel who spend, during
17 the last 10 years of their employment with the same
18 employer that immediately precedes their retirement, 60
19 percent or more of their contract time each year
20 providing direct services to pupils, including, but not
21 limited to, librarians, counselors, nurses, speech
22 therapists, resource specialists, audiologists,
23 audiometrists, hygienists, optometrists, psychologists,
24 driver safety instructors, and personnel on special
25 assignment to perform school attendance and adjustment
26 services.

27 (d) As used in this section, “classroom teacher” does
28 not include any of the following:

29 (1) Certificated employees whose job descriptions
30 require an administrative credential.

31 (2) Certificated employees whose job descriptions
32 include responsibility for supervision of certificated staff.

33 (3) Certificated employees who serve as advisers,
34 coordinators, consultants, or developers or planners of
35 curricula, instructional materials, or programs, who
36 spend, during the last 10 years of their employment with
37 the same employer that immediately precedes their
38 retirement, less than 60 percent of their contract time in
39 direct instruction.

1 (4) Certificated employees whose job descriptions
2 require provision of direct instruction or services, but
3 who are functioning in nonteaching assignments.

4 (5) Classified employees.

5 (e) This section shall apply only to teachers employed
6 by an employer that has, pursuant to Chapter 10.7
7 (commencing with Section 3540) of Division 4 of Title 1
8 of the Government Code, entered into a written
9 agreement with an exclusive representative, that makes
10 this section applicable to all of its classroom teachers, as
11 defined in subdivision (c).

12 (f) The written agreement shall include a mechanism
13 to pay for all increases in allowances provided for by this
14 section through employer contributions or employee
15 contributions or both, which shall be collected and
16 retained by the employer in a trust fund to be used solely
17 and exclusively to pay the system for all increases in
18 allowances provided by this section and related
19 administrative costs, a mechanism for disposition of the
20 employee's contributions if employment is terminated
21 before retirement, and for the establishment of a trust
22 fund board. The trust fund board shall administer the
23 trust fund and shall be composed of an equal number of
24 members representing classroom teachers chosen by the
25 bargaining agent and the employer. If the employer
26 agrees to pay the total cost of increases in allowances, the
27 establishment of a trust fund and a trust fund board shall
28 be optional to the employer. The employer, within 30
29 days of receiving an invoice from the system, shall
30 reimburse the retirement fund the amount determined
31 by the Teachers' Retirement Board to be the actuarial
32 equivalent of the difference between the allowance the
33 member or beneficiary receives pursuant to this section
34 and the allowance the member or beneficiary would have
35 received if the member's final compensation had been
36 computed under Section 22134 and the proportionate
37 share of the cost to the ~~plan~~ *plan's Defined Benefit*
38 *Program*, as determined by the Teachers' Retirement
39 Board, of administering this section. The payment shall
40 include the cost of all increases in allowances provided for

by this section for all years of service credited to the member as of the benefit effective date. Interest shall be charged at the regular interest rate for any payment not received within 30 days of receipt of the invoice. Payments not received within 30 days after receipt of the invoice may be collected pursuant to Section 23007.

(g) Upon the execution of the agreement, the employer shall notify all certificated employees of the agreement and any certificated employee of the employer, who is a member of the Public Employees' Retirement System pursuant to Section 22508, that he or she may, within 60 days following the date of notification, elect to terminate his or her membership in the Public Employees' Retirement System and become a member of this ~~plan~~ *plan's Defined Benefit Program*. However, only service credited under ~~this plan~~ *the Defined Benefit Program* subsequent to the date of that election shall be subject to this section.

(h) An employer that agrees to become subject to this section, shall, on a form and within the timeframes prescribed by the system, certify the applicability of this section to a member pursuant to the criteria set forth in this section when a retirement, disability, or family allowance becomes payable.

(i) For a nonmember spouse, final compensation shall be determined pursuant to paragraph (2) of subdivision (c) of Section 22664. The employer, within 30 days of receiving an invoice from the system, shall reimburse the retirement fund pursuant to subdivision (f). Interest shall be charged at the regular interest rate for payment not received within the prescribed timeframe. Payments not received within 30 days of invoicing may be collected pursuant to Section 23007.

SEC. 12. Section 22136 of the Education Code is amended to read:

22136. (a) "Final compensation" with respect to a member whose salary while an active member was reduced because of a reduction in school funds means the highest average annual compensation earnable by the member during any three years while employed to

1 perform creditable service subject to coverage by the
2 ~~plan~~ *Defined Benefit Program* if the member elects to be
3 subject to this section.

4 (b) For the purposes of this section, a year shall be
5 considered to be a period of 12 consecutive months.

6 SEC. 13. Section 22138.5 of the Education Code is
7 amended to read:

8 22138.5. (a) “Full time” means the days or hours of
9 creditable service the employer requires to be performed
10 by a class of employees in a school year in order to earn
11 the compensation earnable as defined in Section 22115
12 and specified under the terms of a collective bargaining
13 agreement or employment agreement. For the purpose
14 of crediting service under this part, “full time” shall not
15 be less than the minimum standards specified in this
16 section.

17 (b) The minimum standard for full time in
18 kindergarten through grade 12 shall be:

19 (1) One hundred seventy-five days per year or 1,050
20 hours per year except as provided in paragraphs (2) and
21 (3).

22 (2) (A) One hundred ninety days per year or 1,520
23 hours per year for all principals and program managers,
24 including advisers, coordinators, consultants, and
25 developers or planners of curricula, instructional
26 materials, or programs, and for administrators except as
27 provided in subparagraph (B).

28 (B) Two hundred fifteen days per year or 1,720 hours
29 per year including school and legal holidays pursuant to
30 the policy adopted by the employer’s governing board for
31 administrators at a county office of education.

32 (3) One thousand fifty hours per year for teachers in
33 adult education programs.

34 (c) The minimum standard for full time in community
35 colleges shall be:

36 (1) One hundred seventy-five days per year or 1,050
37 hours per year except as provided in paragraphs (2), (3),
38 (4), (5), and (6). Full time shall include time for duties
39 the employer requires to be performed as part of the full
40 time assignment for a particular class of employees.

(2) One hundred ninety days per year or 1,520 hours per year for all program managers and for administrators, except as provided in paragraph (3).

(3) Two hundred fifteen days per year or 1,720 hours per year including school and legal holidays pursuant to the policy adopted by the employer's governing board for administrators at a district office.

(4) One hundred seventy-five days per year or 1,050 hours per year for all counselors and librarians.

(5) Five hundred twenty-five instructional hours per year for all ~~credit~~ instructors employed on a part-time basis. If an instructor receives compensation for office hours pursuant to Article 10 (commencing with Section 87880) of Chapter 3 of Part 51, then the minimum standard established herein shall be increased appropriately by the number of office hours required annually for the class of employees.

(6) Eight hundred seventy-five instructional hours per year for all adult education instructors. If an instructor receives compensation for office hours pursuant to Article 10 (commencing with Section 87880) of Chapter 3 of Part 51, then the minimum standard established herein shall be increased appropriately by the number of office hours required annually for the class of employees.

(d) The board shall have final authority to determine full time for purposes of crediting service under this part if full time is not otherwise specified herein.

SEC. 14. Section 22147.5 of the Education Code is amended to read:

22147.5. "Nonqualified service" means time during which creditable service subject to coverage by the ~~plan~~ *Defined Benefit Program* is not performed, excluding time a member is eligible to purchase as permissive or additional service credit pursuant to Chapter 14 (commencing with Section 22800), Chapter 14.2 (commencing with Section 22820), and Chapter 14.5 (commencing with Section 22850).

SEC. 15. Section 22148 of the Education Code is amended to read:

1 22148. “Normal retirement” and “normal retirement
2 age” mean age 60 years which is the ~~plan~~ age upon
3 attainment of which the member becomes eligible for a
4 service retirement allowance without reduction because
5 of age and without special qualifications.

6 SEC. 16. Section 22156.1 is added to the Education
7 Code, to read:

8 22156.1. “Present value,” for purposes of Section
9 22723, means the amount of money needed on the
10 effective date of retirement to reimburse the system for
11 the actuarially determined cost of the portion of a
12 member’s retirement allowance attributable to unused
13 excess sick leave days. The present value on the effective
14 date of retirement shall equal the number of unused
15 excess sick leave days divided by the number of base days,
16 multiplied by the prior year’s compensation earnable
17 multiplied by the present value factor.

18 SEC. 17. Section 22156.2 is added to the Education
19 Code, to read:

20 22156.2. “Present value factor,” for purposes of
21 Section 22156.1, means an overall average rate based
22 upon the demographics of members who recently retired
23 under the Defined Benefit Program and regular interest
24 which shall determine present value on the effective date
25 of retirement.

26 SEC. 18. Section 22156.5 is added to the Education
27 Code, to read:

28 22156.5. “Prior year’s compensation earnable” means
29 the compensation earnable for the most recent school
30 year in which the member earned service credit which
31 precedes the last school year in which the member
32 earned service credit.

33 SEC. 19. Section 22161 of the Education Code is
34 amended to read:

35 22161. “Public school” means any day or evening
36 elementary school, ~~and~~ any day ~~and~~ or evening secondary
37 school, community college, technical school,
38 kindergarten school, and prekindergarten school
39 established by the Legislature, or by municipal or district
40 authority.

SEC. 20. Section 22161.2 is added to the Education Code, to read:

22161.2. “Reciprocity” means a member of this system who is credited with service that is not used as a basis for benefits under any other public retirement system, and is also a member of the Public Employees’ Retirement System, the Legislators’ Retirement System, the University of California Retirement System, county retirement systems established under Chapter 3 (commencing with Section 31450) of Part 3 of Division 4 of Title 3 of the Government Code, or the San Francisco City and County Employees’ Retirement System, shall have the right to the following:

(a) Have final compensation determined pursuant to subdivision (c) of Section 22134.

(b) Redeposit accumulated retirement contributions pursuant to Section 23201.

(c) Apply for retirement pursuant to paragraph (2) of subdivision (a) of Section 24201.

SEC. 21. Section 22163 of the Education Code is amended to read:

22163. “Reinstatement” means the ~~terminating of a termination of one of the following:~~

(a) A service ~~or~~ retirement allowance pursuant to Section 24208.

(b) A disability retirement allowance ~~and—the changing of status pursuant to Section 24117.~~

(c) A service retirement allowance or disability retirement allowance pursuant to Section 23404; and a change in status with respect to the Defined Benefit Program under this part from a retired member to an active or inactive member ~~or an active member.~~

SEC. 22. Section 22170.5 is added to the Education Code, to read:

22170.5. “Sick leave days” means the number of days of accumulated and unused leave of absence for illness or injury.

“Basic Sick Leave Day” means the equivalent of one day’s paid leave of absence per pay period due to illness or injury.

1 “Excess sick leave days” means the day or total number
2 of days, granted by an employer in a pay period as defined
3 in Section 22154 after June 30, 1986, for paid leave of
4 absence due to illness or injury, in excess of a basic sick
5 leave day.

6 SEC. 23. Section 22306 of the Education Code is
7 amended to read:

8 22306. (a) Information filed with the system by a
9 member, participant, or beneficiary of the plan is
10 confidential and shall be used by the system for the sole
11 purpose of carrying into effect the provisions of this part.
12 No official or employee of the system who has access to
13 the individual records of a member, participant, or
14 beneficiary shall divulge any confidential information
15 concerning those records to any person except in the
16 following instances:

17 (1) To the member, participant or beneficiary to
18 whom the information relates.

19 (2) To the authorized representative of the member,
20 participant or beneficiary.

21 (3) To the governing board of the member’s or
22 participant’s current or former employer.

23 (4) To any department, agency, or political
24 subdivision of this state.

25 (5) To other individuals as necessary to locate a person
26 to whom a benefit may be payable.

27 (6) *Pursuant to subpoena.*

28 (b) Information filed with the system in a beneficiary
29 designation form may be released after the death of the
30 member or participant to those persons who may provide
31 information necessary for the distribution of benefits.

32 (c) The information is not open to inspection by
33 anyone except the board and its officers and employees
34 of the system, and any person authorized by the
35 Legislature to make inspections.

36 SEC. 24. Section 22327 of the Education Code is
37 amended to read:

38 22327. Notwithstanding any other provision of law,
39 the Employment Development Department shall
40 disclose to the board information in its possession relating

1 to the earnings of any person who is receiving a disability
2 benefit ~~from~~ under the ~~plan~~ *Defined Benefit Program*.
3 The earnings information shall be released to the board
4 only upon written request from the board specifying that
5 the person is receiving disability benefits ~~from~~ under the
6 ~~plan~~ *Defined Benefit Program*. The request may be made
7 by the chief executive officer of the system or by an
8 employee of the system so authorized and identified by
9 name and title by the chief executive officer in writing.
10 The board shall notify recipients of disability benefits that
11 earnings information shall be obtained from the
12 Employment Development Department upon request
13 by the board. The board shall not release any earnings
14 information received from the Employment
15 Development Department to any person, agency, or
16 other entity. The system shall reimburse the
17 Employment Development Department for all
18 reasonable administrative expenses incurred pursuant to
19 this section.

20 SEC. 25. Section 22400 of the Education Code is
21 amended to read:

22 22400. (a) There is in the State Treasury a special
23 trust fund to be known as the Teachers' Retirement
24 Fund. There shall be deposited in that fund the assets of
25 the plan and its predecessors, consisting of employee
26 contributions, employer contributions, state
27 contributions, appropriations made to it by the
28 Legislature, income on investments, other interest
29 income, income from fees and penalties, donations,
30 legacies, bequests made to it and accepted by the board,
31 and any other amounts provided by this part *and Part 14*.
32 General Fund transfers pursuant to Section 22954 shall be
33 placed in a segregated account known as the
34 Supplemental Benefit Maintenance Account within the
35 retirement fund, which is continuously appropriated
36 without regard to fiscal years, notwithstanding Section
37 13340 of the Government Code, for expenditure for the
38 purposes of Section 24415 ~~and subdivisions (a) and (b) of~~
39 ~~Section 24414~~.

1 (b) Disbursement of money from the retirement fund
2 of whatever nature shall be made upon claims duly
3 audited in the manner prescribed for the disbursement
4 of other public funds except that notwithstanding the
5 foregoing disbursements may be made to return funds
6 deposited in the fund in error.

7 SEC. 26. Section 22455.5 of the Education Code is
8 amended to read:

9 22455.5. (a) The Legislature finds and declares that
10 the federal Omnibus Budget Reconciliation Act of 1990
11 (P.L. 101-508) requires all public employers to provide
12 their employees with either social security coverage or
13 membership in a qualified retirement plan.

14 (b) Employers shall make available criteria for
15 membership, including optional membership, in a timely
16 manner to all persons employed to perform creditable
17 service subject to coverage by the ~~plan~~ *Defined Benefit*
18 *Program*, and shall inform part-time and substitute
19 employees, within 30 days of the date of hire, or by March
20 1, 1995, whichever is later, that they may elect
21 membership in the ~~plan~~ *plan's Defined Benefit Program*
22 at any time while employed. Written acknowledgment
23 by the employee shall be maintained in employer files on
24 a form provided by this system.

25 (c) Employers shall be liable to the plan for employee
26 and employer contributions and interest *with respect to*
27 *the Defined Benefit Program* from the date of hire, or
28 March 1, 1995, whichever is later, in addition to system
29 administrative and audit costs, if an audit or a member's
30 complaint reveals noncompliance. However, no
31 employer shall be liable for employee contributions for
32 service performed prior to January 1, 1995.

33 SEC. 27. Section 22457 of the Education Code is
34 amended to read:

35 22457. (a) Each county superintendent shall give
36 immediate notice in writing to the board of the
37 employment, death, resignation, or discharge of any
38 person employed by the county or by a school district or
39 community college district in the county to perform

1 creditable service subject to coverage by the ~~plan~~
2 *Defined Benefit Program*.

3 (b) Every other employing agency shall give similar
4 notice with respect to each person it employs to perform
5 creditable service subject to coverage by the ~~plan~~
6 *Defined Benefit Program*.

7 SEC. 28. Section 22458 of the Education Code is
8 amended to read:

9 22458. Each employer shall provide the system with
10 information regarding the compensation to be paid to
11 employees subject to the ~~plan~~ *Defined Benefit Program*
12 in that school year. The information shall be submitted
13 annually as determined by the board and may include,
14 but shall not be limited to, employment contracts, salary
15 schedules, and local board minutes.

16 SEC. 29. Section 22459 of the Education Code is
17 amended to read:

18 22459. (a) The county superintendent or other
19 employing agency shall withhold the salary of any
20 member who fails to file information required by the
21 board in the administration of the ~~plan~~ *Defined Benefit*
22 *Program*, or to pay amounts due from the members to the
23 ~~plan~~ *Defined Benefit Program*.

24 (b) The salary shall be withheld by the county
25 superintendent or employing agency upon his or her own
26 knowledge, if any, of the failure or upon notice from the
27 board of the failure of the member to file or pay.

28 (c) The salary shall be withheld and not released until
29 notice is given by the board to the county superintendent
30 or employing agency, or until the county superintendent
31 or agency knows otherwise, that the information has been
32 filed or the payment has been made.

33 SEC. 30. Section 22502 of the Education Code is
34 amended to read:

35 22502. (a) Any person employed to perform
36 creditable service on a part-time basis who is not already
37 a member of the Defined Benefit Program shall become
38 a member as of the first day of *subsequent* employment
39 to perform creditable service for 50 percent or more of

1 the full-time equivalent for the position, unless excluded
2 from membership pursuant to Section 22601.

3 (b) This section shall apply to persons who perform
4 service subject to coverage under this part and to persons
5 who are employed by employers who provide benefits for
6 their employees under Part 14 (commencing with
7 Section 26000).

8 (c) This section shall be deemed to have become
9 operative on July 1, 1996.

10 SEC. 31. Section 22503 of the Education Code is
11 amended to read:

12 22503. (a) Any person employed to perform
13 creditable service as a substitute teacher who is not
14 already a member of the Defined Benefit Program shall
15 become a member as of the first day of the pay period
16 following the pay period in which the person performed
17 100 or more complete days of creditable service during
18 the school year in one school district, community college
19 district, or county superintendent's office, unless
20 excluded from membership pursuant to Section 22601.

21 (b) This section shall not apply to persons *who are*
22 employed by employers who provide benefits for their
23 employees under Part 14 (commencing with Section
24 26000).

25 (c) This section shall be deemed to have become
26 operative on July 1, 1996.

27 SEC. 32. Section 22504 of the Education Code is
28 amended to read:

29 22504. (a) Any person employed *to perform*
30 *creditable service* on a part-time basis who is not already
31 a member of the Defined Benefit Program shall become
32 a member ~~on~~ *as of* the first day of the pay period following
33 the pay period in which the person performed at least 60
34 hours of creditable service, if employed on an hourly
35 basis, or 10 days of creditable service, if employed on a
36 daily basis, *during the school year*, in one school district,
37 community college district, or county superintendent's
38 office, unless excluded from membership pursuant to
39 Section 22601.



(b) This section shall not apply to persons *who are* employed ~~on a part-time basis~~ by employers who provide benefits for their employees under Part 14 (commencing with Section 26000).

(c) This section shall be deemed to have become operative on July 1, 1996.

SEC. 33. Section 22508.5 of the Education Code is amended to read:

22508.5. (a) Any person who is a member of the Defined Benefit Program of the State Teachers' Retirement ~~plan~~ *Plan* employed by a community college district who subsequently is employed by the Board of Governors of the California Community Colleges to perform duties that ~~require~~ *are subject to* membership in a different public retirement system, shall be excluded from membership in that different system if he or she elects, in writing, and files that election in the office of the State Teachers' Retirement System within 60 days after the person's entry into the new position, to continue as a member of the Defined Benefit Program. Only a person who has achieved plan vesting is eligible to elect to continue as a member of the program.

(b) A member of the Public Employees' Retirement System who is employed by the Board of Governors of the California Community Colleges who subsequently is employed by a community college district to perform creditable service subject to coverage ~~by this plan under the Defined Benefit Program~~, may elect to have that service subject to coverage by the Public Employees' Retirement System and excluded from coverage ~~by this plan under the Defined Benefit Program~~ pursuant to Section 20309 of the Government Code.

(c) This section shall apply to changes in employment effective on or after January 1, 1998.

SEC. 34. Section 22514 of the Education Code is amended to read:

22514. Members who have not achieved plan vesting shall become eligible for benefits under ~~this plan the Defined Benefit Program~~ when total service under ~~this plan the Defined Benefit Program~~ and the Public

1 Employees' Retirement System equals the minimum
2 required under Sections 23801 and 23804. These members
3 shall retain vested rights to survivor and disability
4 benefits under this plan until they qualify for the similar
5 benefits ~~in~~ *under* the Public Employees' Retirement
6 System.

7 SEC. 35. Section 22516 of the Education Code is
8 amended to read:

9 22516. (a) Nothing in this chapter shall be construed
10 or applied to exclude from membership in the Defined
11 Benefit Program any person employed to perform
12 creditable service at a level that requires mandatory
13 membership in the program for which he or she has the
14 right to elect membership in the program or another
15 retirement system and who elects membership in the
16 other retirement system, or who is employed to perform
17 creditable service at a level that does not require
18 mandatory membership in the Defined Benefit Program.

19 (b) Service performed after becoming a member of
20 another retirement system shall not be credited to the
21 member under this part, nor shall contributions or
22 benefits under this part be based upon that service or the
23 compensation received by the member during that
24 period of service, except as provided in the definition of
25 "final compensation" contained in Section-~~22133~~ 22134.

26 SEC. 36. Section 22601.5 of the Education Code is
27 amended to read:

28 22601.5. (a) Any person *employed to perform*
29 *creditable service* who is not already a member ~~of~~ *in* the
30 ~~plan who is employed to perform creditable service~~
31 *Defined Benefit Program* and whose basis of
32 employment is less than 50 percent of the full-time
33 equivalent for the position is excluded from mandatory
34 membership in the ~~plan~~ *Defined Benefit Program*.

35 (b) This section shall apply to persons who perform
36 service subject to coverage under this part and to persons
37 who are employed by employers who provide benefits for
38 their employees under Part 14 (commencing with
39 Section 26000).

1 (c) This section shall be deemed to have become
2 operative on July 1, 1996.

3 SEC. 37. Section 22602 of the Education Code is
4 amended to read:

5 22602. (a) Any person *employed to perform*
6 *creditable service as a substitute teacher* who is not
7 already a member ~~of in the plan who is employed as a~~
8 ~~substitute~~ *Defined Benefit Program* and who performs
9 less than 100 complete days of creditable service in one
10 school district, community college district, or county
11 superintendent's office during the school year is excluded
12 from mandatory membership in the ~~plan~~ *Defined Benefit*
13 *Program*.

14 (b) This section shall not apply to *persons who*
15 *perform service for* employers who provide benefits for
16 their employees under Part 14 (commencing with
17 Section 26000).

18 (c) The amendments to this section enacted during
19 the 1995–96 Regular Session shall be deemed to have
20 become operative on July 1, 1996.

21 SEC. 38. Section 22604 of the Education Code is
22 amended to read:

23 22604. (a) Any person *employed to perform*
24 *creditable service on a part-time basis* who is not already
25 a member ~~of in the plan who is employed on a part-time~~
26 ~~basis~~, *Defined Benefit Program* and who performs less
27 than 60 hours of creditable service in a pay period if
28 employed on an hourly basis, or less than 10 days of
29 creditable service in a pay period if employed on a daily
30 basis, *during the school year* in one school district,
31 community college district, or county superintendent's
32 office is excluded from mandatory membership in the
33 ~~plan~~ *Defined Benefit Program*.

34 (b) This section shall not apply to *persons who are*
35 *employed by* employers who provide benefits for their
36 employees under Part 14 (commencing with Section
37 26000).

38 (c) The amendments to this section enacted during
39 the 1995–96 Regular Session shall be deemed to have
40 become operative on July 1, 1996.

1 SEC. 39. Section 22714 of the Education Code is
2 amended to read:

3 22714. (a) Whenever the governing board of a school
4 district or a community college district or a county office
5 of education, by formal action taken prior to January 1,
6 1999, determines pursuant to Section 44929 or 87488 that
7 because of impending curtailment of or changes in the
8 manner of performing services, the best interests of the
9 district or county office of education would be served by
10 encouraging certificated employees or academic
11 employees to retire for service and that the retirement
12 will either: result in a net savings to the district or county
13 office of education; result in a reduction of the number of
14 certificated employees or academic employees as a result
15 of declining enrollment; or result in the retention of
16 certificated employees who are credentialed to teach in,
17 or faculty who are qualified to teach in, teacher shortage
18 disciplines, including, but not limited to, mathematics
19 and science, an additional two years of service *credit* shall
20 ~~be credited~~ *granted* under this part to a member of the
21 Defined Benefit Program if all of the following conditions
22 exist:

23 (1) The member is credited with five or more years of
24 service and retires for service under the provisions of
25 Chapter 27 (commencing with Section 24201) during a
26 period of not more than 120 days or less than 60 days,
27 commencing no sooner than the effective date of the
28 formal action of the employer that shall specify the
29 period.

30 (2) The employer transfers to the retirement fund an
31 amount determined by the Teachers' Retirement Board
32 to equal the actuarial equivalent of the difference
33 between the allowance the member receives after
34 receipt of service credit ~~under pursuant to~~ this section
35 and the amount the member would have received
36 without the service credit and an amount determined by
37 the Teachers' Retirement Board to equal the actuarial
38 equivalent of the difference between the purchasing
39 power protection supplemental payment the member
40 receives after receipt of ~~additional~~ service credit

1 pursuant to this section and the amount the member
2 would have received without the ~~additional~~ service
3 credit. The payment for purchasing power shall be
4 deposited in the Supplemental Benefit Maintenance
5 Account established by Section 22400 and shall be subject
6 to ~~Sections 24414 and~~ Section 24415. The transfer to the
7 retirement fund shall be made in a manner, and time
8 period not to exceed four years, that is acceptable to the
9 Teachers' Retirement Board. The employer shall transfer
10 the required amount for all eligible employees who retire
11 pursuant to this section.

12 (3) The employer transmits to the retirement fund the
13 administrative costs incurred by the system in
14 implementing this section, as determined by the
15 Teachers' Retirement Board.

16 (4) The employer has considered the availability of
17 teachers or academic employees to fill the positions that
18 would be vacated pursuant to this section.

19 (b) (1) The school district shall demonstrate and
20 certify to the county superintendent that the formal
21 action taken would result in either: (A) a net savings to
22 the district; (B) a reduction of the number of certificated
23 employees as a result of declining enrollment, as
24 computed pursuant to Section 42238.5; or (C) the
25 retention of certificated employees who are credentialed
26 to teach in teacher shortage disciplines.

27 (2) The county superintendent shall certify to the
28 Teachers' Retirement Board that a result specified in
29 paragraph (1) can be demonstrated. The certification
30 shall include, but not be limited to, the information
31 specified in subdivision (b) of Section 14502. A district
32 that qualifies under clause (B) of paragraph (1) shall also
33 certify that it qualifies as a declining enrollment district
34 as computed pursuant to Section 42238.5.

35 (3) The school district shall reimburse the county
36 superintendent for all ~~the~~ costs ~~of~~ to the county
37 superintendent that result from the certification.

38 (c) (1) The county office of education shall
39 demonstrate and certify to the Superintendent of Public
40 Instruction that the formal action taken would result in

1 either: (A) a net savings to the county office of education;
2 (B) a reduction of the number of certificated employees
3 as a result of declining enrollment; or (C) the retention
4 of certificated employees who are credentialed to teach
5 in teacher shortage disciplines.

6 (2) The Superintendent of Public Instruction shall
7 certify to the Teachers' Retirement Board that a result
8 specified in paragraph (1) can be demonstrated. The
9 certification shall include, but not be limited to, the
10 information specified in subdivision (b) of Section 14502.

11 (3) The Superintendent of Public Instruction may
12 request reimbursement from the county office of
13 education for all administrative costs that result from the
14 certification.

15 (d) (1) The community college district shall
16 demonstrate and certify to the chancellor's office that the
17 formal action taken would result in either: (A) a net
18 savings to the district; (B) a reduction in the number of
19 academic employees as a result of declining enrollment,
20 as computed pursuant to subdivision (c) of Section 84701;
21 or (C) the retention of faculty who are qualified to teach
22 in teacher shortage disciplines.

23 (2) The chancellor shall certify to the Teachers'
24 Retirement Board that a result specified in paragraph (1)
25 can be demonstrated. The certification shall include, but
26 not be limited to, the information specified in subdivision
27 (c) of Section 84040.5. A community college district that
28 qualifies under clause (B) of paragraph (1) of subdivision
29 (b) of this section shall also certify that it qualifies as a
30 declining enrollment district as computed pursuant to
31 subdivision (c) of Section 84701.

32 (3) The chancellor may request reimbursement from
33 the community college for all administrative costs that
34 result from the certification.

35 (e) The opportunity to be granted service credit
36 pursuant to this section shall be available to all members
37 employed by the school district, community college
38 district, or county office of education who meet the
39 conditions set forth in this section.

40 (f) The amount of service credit shall be two years.

1 (g) Any member of the Defined Benefit Program who
2 retires under this part for service under the provisions of
3 Chapter 27 (commencing with Section 24201) with
4 service credit granted under this section and who
5 subsequently reinstates shall forfeit the service credit
6 granted under this section.

7 (h) This section shall not be applicable to any member
8 otherwise eligible if the member receives any
9 unemployment insurance payments arising out of
10 employment with an employer subject to this part during
11 a period extending one year beyond the effective date of
12 the formal action, or if the member is not otherwise
13 eligible to retire for service.

14 SEC. 40. Section 22717 of the Education Code is
15 amended to read:

16 22717. (a) A member shall be granted credit at
17 service retirement for each day of accumulated and
18 unused leave of absence for illness or injury for which full
19 salary is allowed to which the member was entitled on the
20 member's final day of employment with the employer by
21 which the member was last employed to perform
22 creditable service subject to coverage by the ~~plan~~
23 *Defined Benefit Program*.

24 (b) The amount of service credit to be granted shall be
25 determined by dividing the number of days of
26 accumulated and unused leave of absence for illness or
27 injury by the number of days of service the employer
28 requires the member's class of employees to perform in
29 a school year during the member's final year of creditable
30 service subject to coverage by the ~~plan~~ *Defined Benefit*
31 *Program*, which shall not be less than the minimum
32 standard specified in Section 22138.5. *The number of days*
33 *shall not include school and legal holidays.* In no event
34 shall the divisor be less than 175. *For members employed*
35 *less than full-time, the standards identified in Section*
36 *22138.5 shall be considered as the minimum full-time*
37 *equivalent. For those standards identified in Section*
38 *22138.5 that are applicable to teachers or instructors and*
39 *that are expressed only in terms of hours or instructional*

1 *hours, the number of hours or instructional hours shall be*
2 *divided by six to determine the number of days.*

3 (c) When the member has made application for
4 service retirement under this part, the employer shall
5 certify to the board, within 30 days following the effective
6 date of the member's service retirement, the number of
7 days of accumulated and unused leave of absence for
8 illness or injury that the member was entitled to on the
9 final day of employment. The board may assess a penalty
10 on delinquent reports.

11 (d) This section shall be applicable to any person who
12 retires on or after January 1, 1999.

13 SEC. 41. Section 22803 of the Education Code is
14 amended to read:

15 22803. (a) A member may elect to receive credit for
16 any of the following:

17 (1) Service performed in a teaching position in a
18 publicly supported and administered university or
19 college in this state.

20 (2) Service performed in a certificated teaching
21 position in a child care center operated by a county
22 superintendent of schools or a school district in this state.

23 (3) Service performed in a teaching position in the
24 California School for the Deaf or the California School for
25 the Blind, or in special classes maintained by the public
26 schools of this state for the instruction of the deaf, the hard
27 of hearing, the blind, or the semisighted.

28 (4) Service performed in a certificated teaching
29 position in a federally supported and administered Indian
30 school in this state.

31 (5) Time served, not to exceed two years, in a
32 certificated teaching position in a job corps center
33 administered by the United States government in this
34 state if the member was employed to perform creditable
35 service subject to coverage ~~by~~ *under the plan Defined*
36 *Benefit Program* within one year prior to entering the
37 service and returned to employment to perform
38 creditable service subject to coverage by the plan within
39 six months following the date of termination of service in
40 the job corps.

1 (6) Time spent on a sabbatical leave after July 1, 1956.

2 (7) Time spent on an approved leave to participate in
3 any program under the federal Mutual Educational and
4 Cultural Exchange Program.

5 (8) Time spent on an approved maternity or paternity
6 leave of two years or less in duration, regardless of
7 whether or not the leave was taken before or after the
8 addition of this subdivision.

9 (9) Time spent on an approved leave, up to four
10 months in any 12-month period, for family care or
11 medical leave purposes, as defined by Section 12945.2 of
12 the Government Code, as it read on the date leave was
13 granted, excluding maternity and paternity leave.

14 (10) Time spent employed by the Board of Governors
15 of the California Community Colleges in a position
16 subject to coverage by the Public Employees' Retirement
17 System between July 1, 1991, and December 31, 1997,
18 provided the member has elected to return to coverage
19 under the State Teachers' Retirement System pursuant to
20 Section 20309 of the Government Code.

21 (b) In no event shall the member receive credit for
22 service or time described in paragraphs (1) to ~~(11)~~ (10),
23 inclusive, of subdivision (a) if the member has received
24 or is eligible to receive credit for the same service or time
25 in the Cash Balance ~~Plan~~ *Benefit Program* under Part 14
26 (commencing with Section 26000) or another retirement
27 system.

28 SEC. 42. Section 22805 of the Education Code is
29 amended to read:

30 22805. (a) A member may elect to receive credit
31 under this part for time served in the active military
32 service of the United States or of this state, including
33 active service in any uniformed auxiliary to any branch of
34 that military service authorized as an auxiliary by the
35 United States Congress or the California State
36 Legislature, or in the full-time paid service of the
37 American Red Cross prior to September 1957, if both of
38 the following conditions exist:

39 (1) The time served was during war with any foreign
40 power or during other national emergency, or in time of

1 peace if the member was drafted for that service by the
2 United States government.

3 (2) The member was employed to perform creditable
4 service subject to coverage ~~by~~ *under* the ~~plan~~ *Defined*
5 *Benefit Program* within one year prior to entering that
6 service. Time included under this section shall be
7 considered as served in the state in which the member
8 was last employed before entering that service.

9 (b) Time during which the member ~~is~~ *was* absent
10 without compensation for other cause, on leave, or
11 otherwise, shall not be included.

12 SEC. 43. Section 22820 of the Education Code is
13 amended to read:

14 22820. (a) A member, other than a retired member,
15 may elect to purchase out-of-state service credited in a
16 public retirement system for service covering public
17 education in another state or territory of the United
18 States or by the United States for its citizens. In no event
19 shall the member receive credit for this service if the
20 member has credit or is eligible to receive credit for the
21 same service in the Cash Balance ~~Plan~~ *Benefit Program*
22 under Part 14 (commencing with Section 26000) or
23 another public retirement system, excluding social
24 security.

25 (b) The amount of out-of-state service for which a
26 member may purchase credit may not exceed the
27 number of years of service credited to the member in the
28 out-of-state retirement system or 10 years, whichever is
29 less.

30 (c) Out-of-state service credit may be purchased
31 under this section by means of any of the following
32 actions:

33 (1) Paying an amount equal to the amount refunded
34 from the other public retirement system and receiving
35 service credit ~~in this plan~~ *under the Defined Benefit*
36 *Program* pursuant to subdivision (a) of Section 22823.

37 (2) Paying the contributions required ~~under this plan~~
38 *the Defined Benefit Program* pursuant to subdivision (a)
39 of Section 22823 for the service credited in the other
40 public retirement system.

(3) Paying an amount equal to the amount refunded from the other public retirement system and an additional amount in accordance with subdivision (a) of Section 22823 for the service credited in the other public retirement system.

(d) Contributions made to a plan qualified under Section 403(b) of the Internal Revenue Code may not be used to purchase credit for out-of-state service.

(e) Compensation for out-of-state service shall not be used in determining the highest average annual compensation earnable when calculating final compensation.

(f) The ~~credited service purchase~~ *service credit purchased* under this section shall not be used to meet the eligibility requirements for benefits provided under Sections 24001 and 24101.

SEC. 44. Section 22826 of the Education Code is amended to read:

22826. (a) A member may elect to receive up to five years of credit for nonqualified service provided the member is vested in the ~~plan~~ *Defined Benefit Program* as provided in Section 22156.

(b) A member who elects to receive credit for nonqualified service as provided in this chapter shall contribute to the retirement fund the actuarial cost of the service, including interest as appropriate, as determined by the board based on the most recent valuation of the plan *with respect to the Defined Benefit Program*.

(1) Payment that a member may make to the system to obtain credit for nonqualified service shall be paid in full prior to the effective date of a family, survivor, disability, or retirement allowance.

(2) If the system is unable to inform the member of the amount required to purchase nonqualified service prior to the effective date of the applicable allowance, the member may make payment in full within 30 working days after the date of mailing of the statement of contributions and interest required or the effective date of the appropriate allowance, whichever is later.

1 (c) Contributions for nonqualified service credit shall
2 be made in a lump sum or in not more than 120 monthly
3 installments. No installment, except the final installment,
4 shall be less than twenty-five dollars (\$25).

5 (d) Regular interest shall be charged on the monthly
6 unpaid balance if the member makes installment
7 payments.

8 SEC. 45. Section 22955 of the Education Code is
9 amended to read:

10 22955. (a) Notwithstanding Section 13340 of the
11 Government Code, commencing July 1, 1999, a
12 continuous appropriation is hereby annually made from
13 the General Fund to the Controller, pursuant to this
14 section, for transfer to the Teachers' Retirement Fund.
15 The total amount of the appropriation for each year shall
16 be equal to 3.102 percent of the total of the creditable
17 compensation of the immediately preceding calendar
18 year upon which members' contributions are based, to be
19 calculated annually on October 1, and shall be divided
20 into four equal quarterly payments.

21 (b) Notwithstanding Section 13340 of the
22 Government Code, commencing October 1, 1998, a
23 continuous appropriation, in addition to the
24 appropriation made by subdivision (a), is hereby
25 annually made from the General Fund to the Controller
26 for transfer to the Teachers' Retirement Fund. The total
27 amount of the appropriation for each year shall be equal
28 to 0.524 percent of the total of the creditable
29 compensation of the immediately preceding calendar
30 year upon which members' contributions are based, to be
31 calculated annually on October 1, and shall be divided
32 into four equal quarterly payments. The percentage shall
33 be adjusted to reflect the contribution required to fund
34 the normal cost deficit or the unfunded obligation as
35 determined by the board based upon a recommendation
36 from its actuary. If a rate increase is required, the
37 adjustment may be for no more than 0.25 percent per
38 year and in no case may the transfer made pursuant to this
39 subdivision exceed 1.505 percent of the total of the
40 creditable compensation of the immediately preceding

1 calendar year upon which members' contributions are
2 based. At any time when there is neither an unfunded
3 obligation nor a normal cost deficit, the percentage shall
4 be reduced to zero.

5 The funds transferred pursuant to this subdivision shall
6 first be applied to eliminating on or before June 30, 2027,
7 the unfunded actuarial liability—~~in~~ *of* the fund identified
8 in the actuarial valuation as of June 30, 1997.

9 (c) For the purposes of this section, the term “normal
10 cost deficit” means the difference between the normal
11 cost rate as determined in the actuarial valuation
12 required by Section—~~22226~~ 22311 and the total of the
13 member contribution rate required under Section—~~22804~~
14 22901 and the employer contribution rate required under
15 Section—~~23400~~ 22950, and shall exclude (1) the portion for
16 unused sick leave service granted pursuant to Section
17 ~~22749~~ 22717, and (2) the cost of benefit increases which
18 occur after July 1, 1990. The contribution rates prescribed
19 in Section—~~22804~~ 22901 and Section—~~23400~~ 22950 on July 1,
20 1990, shall be utilized to make the calculations. The
21 normal cost deficit shall then be multiplied by the total of
22 the creditable compensation upon which member
23 contributions *under this part* are based to determine the
24 dollar amount of the normal cost deficit for the year.

25 (d) Pursuant to Section 22001 and—~~the case law, the~~
26 members are entitled to a financially sound retirement
27 system. It is the intent of the Legislature that this section
28 shall provide the retirement fund stable and full funding
29 over the long term.

30 (e) This section continues in effect but in a somewhat
31 different form, fully performs, and does not in any way
32 unreasonably impair, the contractual obligations
33 determined by the court in *California Teachers'*
34 *Association v. Cory*, 155 Cal. App. 3d 494.

35 (f) Subdivision (b) shall not be construed to be
36 applicable to any unfunded liability resulting from any
37 benefit increase or change in contribution rate *under this*
38 *part* that occurs after July 1, 1990.

39 (g) The amendments to this section during the
40 1991–92 Regular Session shall be construed and

1 implemented to be in conformity with the judicial intent
2 expressed by the court in California Teachers' Association
3 v. Cory, 155 Cal. App. 3d 494.

4 SEC. 46. Section 23003 of the Education Code is
5 amended to read:

6 23003. (a) If a county superintendent of schools or
7 employing agency ~~other than a school district or~~
8 ~~community college district~~ or school district or
9 community college district that reports directly to the
10 system fails to make payment of contributions as provided
11 in Section 23002, the board may assess penalties.

12 (b) The board may charge regular interest on any
13 delinquent contributions under this part ~~until the~~
14 ~~contributions have been received by the system.~~

15 SEC. 47. Section 23006 of the Education Code is
16 amended to read:

17 23006. (a) If a county superintendent of schools or
18 employing agency ~~other than a school district or~~
19 ~~community college district~~ or community college district
20 that reports directly to the system, submits monthly
21 reports late or in unacceptable form, the board may assess
22 penalties.

23 (b) The board may assess penalties, based on the sum
24 of the employer and employee contributions required
25 under this part by the report for late or unacceptable
26 submission of reports, at a rate of interest equal to the
27 regular interest rate or a fee of five hundred dollars
28 (\$500), whichever is greater.

29 SEC. 48. Section 23201 of the Education Code is
30 amended to read:

31 23201. Any person whose accumulated retirement
32 contributions were refunded and who has received, or
33 will qualify to receive, a retirement allowance from ~~the~~
34 ~~Public Employees' Retirement System, the University of~~
35 ~~California Retirement System, the Legislators'~~
36 ~~Retirement System, county retirement systems~~
37 ~~established under Chapter 3 (commencing with Section~~
38 ~~31450) of Part 3 of Division 4 of Title 3 of the Government~~
39 ~~Code, or the San Francisco City and County Employees'~~
40 ~~Retirement System~~ one or more of the retirement

1 *systems with which the State Teachers' Retirement*
 2 *System has reciprocity as defined in Section 22161.2 may*
 3 *elect to redeposit the accumulated retirement*
 4 *contributions that were refunded, with regular interest*
 5 *from the date of refund to the date of payment, without*
 6 *being employed to perform creditable service subject to*
 7 *coverage under the Defined Benefit Program. A person*
 8 ~~*who elects to redeposit pursuant to this section shall not*~~
 9 ~~*receive credit for service that might otherwise be*~~
 10 ~~*creditable under Section 22810.*~~

11 SEC. 49. Section 23702 of the Education Code is
 12 amended to read:

13 23702. (a) All members—~~of in the plan~~ *Defined*
 14 *Benefit Program* on October 15, 1992, who are not
 15 receiving a disability allowance or a retirement allowance
 16 with an effective date prior to October 16, 1992, shall be
 17 eligible to make an irrevocable election, pursuant to this
 18 chapter, to retain coverage under either the disability
 19 allowance and family allowance programs or to have
 20 coverage under the disability retirement and survivor
 21 benefits programs.

22 (b) The member's eligibility to participate in the
 23 election shall be based on the member's status in the—~~plan~~
 24 *Defined Benefit Program* on October 15, 1992, only, and
 25 not on prior or subsequent events.

26 SEC. 50. Section 23851 of the Education Code is
 27 amended to read:

28 23851. (a) A death payment of—~~no~~ *not* less than
 29 twenty thousand dollars (\$20,000) shall be paid to the
 30 beneficiary, as designated pursuant to Section 23300,
 31 upon receipt of proof of death of an active member, who
 32 had one or more years of credited service, at least one of
 33 which had been performed subsequent to the most
 34 recent refund of accumulated retirement contributions,
 35 if the member died during any one of the following
 36 periods:

37 (1) While in employment for which *creditable*
 38 compensation is paid.

1 (2) Within four months after termination of *creditable*
2 service or termination of employment, whichever occurs
3 first.

4 (3) Within 12 months of the last day for which
5 *creditable* compensation was paid, if the member was on
6 an approved leave of absence without *creditable*
7 compensation for reasons other than disability or military
8 service.

9 (b) A death payment pursuant to this section shall not
10 be payable for the death of a member that occurs within
11 one year commencing with the effective date of
12 termination of the service retirement allowance pursuant
13 to Section 24208 or during the six calendar months
14 commencing with the effective date of termination of the
15 disability retirement allowance pursuant to Section
16 24117.

17 (c) The board may adjust the death payment amount
18 following each actuarial valuation based on changes in
19 the All Urban California Consumer Price Index and adopt
20 as a plan amendment *with respect to the Defined Benefit*
21 *Program* any adjusted amount.

22 (d) A designated beneficiary may waive ~~his or her~~ *the*
23 right to the death payment in accordance with the
24 requirements established by the system.

25 SEC. 51. Section 24101.5 of the Education Code is
26 amended to read:

27 24101.5. A member shall not be eligible for disability
28 retirement ~~from this plan~~ *under the Defined Benefit*
29 *Program* while on a leave of absence to serve as a full-time
30 elected officer of an employee organization, even if
31 ~~receiving the member receives~~ service credit under
32 Section 22711.

33 SEC. 52. Section 24201 of the Education Code is
34 amended to read:

35 24201. (a) A member may retire for service under
36 this part upon written application for retirement to the
37 board, under paragraph (1) or (2) as follows:

38 (1) The member has attained age 55 years or more and
39 has at least five years of credited service, at least one year
40 of which has been performed subsequent to the most

1 recent refund of accumulated retirement contributions.
2 The five years of credited service may include out-of-state
3 service purchased pursuant to Section 22820.

4 (2) The member is credited with service that is not
5 used as a basis for benefits under any other public
6 retirement system, excluding the federal social security
7 system, if ~~he or she~~ *the member* has attained age 55 years
8 *or older* and retires concurrently under ~~the Public~~
9 ~~Employees' Retirement System, the Legislators'~~
10 ~~Retirement System, the University of California~~
11 ~~Retirement System, county retirement systems~~
12 ~~established under the County Employees Retirement~~
13 ~~Law of 1937, or the San Francisco City and County~~
14 ~~Employees' Retirement System~~ *one or more of the*
15 *retirement systems with which the State Teachers'*
16 *Retirement System has reciprocity as defined in Section*
17 *22161.2.*

18 (b) Application for retirement under paragraph (2) of
19 subdivision (a) may be made at any time.

20 SEC. 53. Section 24205 of the Education Code is
21 repealed.

22 ~~24205. (a) The board shall, in consultation with~~
23 ~~members, develop, adopt, and implement an additional~~
24 ~~early retirement alternative under this part that will~~
25 ~~allow a member to receive a minimum retirement~~
26 ~~allowance prior to normal retirement age if the member~~
27 ~~has at least attained early retirement age. Under the~~
28 ~~alternative, the member shall continue to receive the~~
29 ~~minimum retirement allowance past normal retirement~~
30 ~~age until the total amount paid prior to normal~~
31 ~~retirement age equals the difference between the~~
32 ~~minimum retirement allowance and the retirement~~
33 ~~allowance that would have been paid to the member~~
34 ~~under Section 24202 or 24203, whichever is applicable, at~~
35 ~~normal retirement age, and thereafter the service~~
36 ~~retirement allowance for normal retirement age shall be~~
37 ~~paid. The board shall determine the age past normal~~
38 ~~retirement at which the increase will be made by~~
39 ~~determining how long the minimum retirement~~
40 ~~allowance would have to be paid beyond age 60 years in~~

~~order for the amount paid prior to age 60 years to equal the difference between the minimum retirement allowance and the allowance that would have been paid to the member under service retirement at normal retirement age. The board shall integrate the early retirement alternative adopted under this section with the other early retirement alternatives that a member may elect under this chapter.~~

~~(b) For the purposes of this section, all contributions, liabilities, actuarial interest rates, and other valuation factors shall be determined on the basis of actuarial assumptions and methods which, in the aggregate, are reasonable and which, in combination, offer the actuary's best estimate of anticipated experience under the Defined Benefit Program.~~

~~(c) The additional employer contributions required, if any, under this section shall be computed as a level percentage of creditable compensation. The additional contribution rate required, if any, shall not be less than the sum of (1) the actuarial normal cost, plus (2) the additional contribution required to amortize the increase in accrued liability attributable to benefits elected under this section over a period of not more than 30 years from January 1, 1979.~~

SEC. 54. Section 24205 is added to the Education Code, to read:

24205. Any member retiring prior to age 60, and who has attained age 55, may elect to receive one-half of the age 60 benefit for a limited time and then revert to the full age 60 benefit:

(a) The age 60 benefit shall be based on service credit and final compensation as of the date of retirement and shall be calculated with the full age 60 normal retirement factor.

(b) If the member elects a joint and survivor option under Section 24300, the actuarial reduction shall be based on the member and beneficiaries' ages as of the effective date of the early retirement. If the member elected a preretirement option under Section 24307, the actuarial reduction shall be based on the member and

1 beneficiaries' ages as determined by provisions of that
2 section.

3 (c) One-half of the normal or modified allowance as
4 of age 60 shall be paid for a period of time equal to twice
5 the elapsed time between the effective date of
6 retirement and the date of the retired member's 60th
7 birthday.

8 (d) The full normal or modified allowance as
9 calculated under subdivision (a) or (b) shall begin to
10 accrue as of the first of the month following the reduction
11 period as specified in subdivision (c). The full normal or
12 modified allowance shall not begin to accrue prior to this
13 time under any circumstances, including, but not limited
14 to, divorce or death of the named beneficiary.

15 (e) The annual 'improvement factor' provided for in
16 Sections 22140 and 22141 shall be based upon the age 60
17 benefit as calculated under subdivision (a) or (b). The
18 'improvement factor' shall begin to accrue on September
19 1 following the retired member's 60th birthday. These
20 increases shall be accumulated and shall become payable
21 when the age 60 allowance first becomes payable.

22 (f) Any ad hoc benefit increase with an effective date
23 prior to the retired member's 60th birthday shall not
24 affect any allowance payable under this section. Only
25 those ad hoc improvements with effective dates on or
26 after the retired member's 60th birthday shall be accrued
27 and accumulated and shall first become payable when the
28 age 60 allowance becomes payable.

29 (g) The cancellation of an option election in
30 accordance with Section 24305 shall not cancel the
31 election under this section. Upon cancellation of the joint
32 and survivor option, one-half of the retired member's age
33 60 benefit shall become payable for the balance of the
34 reduction period specified in subdivision (c).

35 (h) If a retired member who has elected a joint and
36 survivor option dies during the period when the reduced
37 allowance is payable, the beneficiary shall receive
38 one-half of the allowance payable to the beneficiary until
39 the date when the retired member would have received
40 the full age 60 benefit. At that time the beneficiary's

1 allowance shall be increased to the full amount plus the
2 appropriate annual improvement factor increases and ad
3 hoc increases.

4 SEC. 55. Section 24212 of the Education Code is
5 amended to read:

6 24212. If a disability allowance granted under this part
7 after June 30, 1972, is terminated for reasons other than
8 those specified in Section 24213 and the member does not
9 return to employment subject to coverage—~~by~~ *under* the
10 ~~plan~~ *Defined Benefit Program*, the *member's* service
11 retirement allowance, when payable, shall be based on
12 projected service, projected final compensation, and the
13 age of the member on the last day of the month in which
14 the retirement allowance begins to accrue. The
15 allowance payable under this section, excluding annuities
16 payable from accumulated annuity deposit contributions,
17 shall not be greater than the terminated disability
18 allowance excluding children's portions.

19 SEC. 56. Section 24216.5 of the Education Code is
20 amended to read:

21 24216.5. (a) The compensation earned by a member
22 who retired for service under this part shall be exempt
23 from subdivisions (d), (f), and (g) of Section 24214, if all
24 of the following conditions are met:

25 (1) The member retired for service with an effective
26 date on or before July 1, 1998.

27 (2) The member retired for service is employed by a
28 school district to provide:

29 (A) Direct classroom instruction to students in—~~newly~~
30 ~~created grades kindergarten through 3~~ *classrooms that*
31 *were created to meet the objectives of a program*
32 *authorized in Part 28 (commencing with Section 51000)*
33 *to reduce class sizes; or*

34 (B) Is temporarily filling a position—~~in grades 4 through~~
35 ~~12~~ *that was vacated due to a teacher transferring to a*
36 *classroom—~~in grades kindergarten through 3~~ within the*
37 *same district that was created to meet the objectives of*
38 ~~the Class Size Reduction Program~~ *a program to reduce*
39 *class sizes, as set forth in—~~Chapter 6.10 (commencing with~~*

1 ~~Section 52120~~ of Part 28 (*commencing with Section*
2 *51000*).

3 (3) All members retired for service whose
4 employment with a school district meets the conditions
5 specified in this section shall be treated as a distinct class
6 of temporary employees within the existing bargaining
7 unit whose service shall not be included in computing the
8 service required as a prerequisite to attainment of or
9 eligibility for classification as a permanent employee of a
10 school district. The compensation for service performed
11 by this class of employees shall be established in
12 accordance with subdivision (b) of Section 24214 and
13 agreed to in the collective bargaining agreement
14 between the employing school district and the exclusive
15 representative for the existing bargaining unit within
16 which these temporary employees of the school district
17 are treated as a distinct class.

18 (4) The employing school district submits
19 documentation required by the system to substantiate
20 the eligibility of the temporary employment of a member
21 retired for service for the exemption under this
22 subdivision.

23 (b) A school district that employs a member retired
24 for service pursuant to this section shall maintain
25 accurate records of the retired member's compensation
26 earned and shall report that compensation monthly to the
27 system regardless of the method of payment or the source
28 of funds from which the compensation is paid.

29 ~~(c) Upon written request to the system, a member~~
30 ~~who retired for service under this part with an effective~~
31 ~~date on or before July 1, 1996, and who, between July 1,~~
32 ~~1996, and 60 days following the effective date of this~~
33 ~~section, terminated his or her service retirement~~
34 ~~allowance and returned to employment that qualifies for~~
35 ~~the exemption specified in subdivision (a) may cancel his~~
36 ~~or her reinstatement and return to status as a member~~
37 ~~retired for service as if the service retirement allowance~~
38 ~~had not been terminated.~~

39 ~~(d)~~ This section shall not apply to the compensation
40 earned for creditable service performed by a member

1 retired for service for a county office of education or a
2 community college district.

3 (d) *The amendments to this section enacted during*
4 *the 1999 calendar year of the 1999–2000 Regular Session*
5 *shall apply to the 1999–2000 school year.*

6 (e) This section shall ~~become operative on July 1, 1996,~~
7 ~~and shall~~ remain in effect only until July 1, 2002, and as of
8 that date is repealed unless a later enacted statute which
9 is enacted before July 1, 2002, deletes or extends that date.

10 SEC. 57. Section 24300 of the Education Code is
11 amended to read:

12 24300. (a) Any member prior to the effective date of
13 the member's retirement *under this part* may elect an
14 option that would provide an actuarially modified
15 retirement allowance payable throughout the life of the
16 member and ~~his or her~~ *the member's* option beneficiary
17 as follows:

18 (1) Option 2. The modified retirement allowance shall
19 be paid to the retired member and upon the retired
20 member's death, an allowance equal to the modified
21 amount the retired member was receiving shall be paid
22 to the option beneficiary

23 (2) Option 3. The modified retirement allowance shall
24 be paid to the retired member and upon the retired
25 member's death, an allowance equal to one-half of the
26 modified amount the retired member was receiving shall
27 be paid to the option beneficiary.

28 (3) Option 4. The modified retirement allowance shall
29 be paid to the retired member as long as both the retired
30 member and the option beneficiary are living. Upon the
31 death of either the retired member or the option
32 beneficiary, an allowance equal to two-thirds of the
33 modified amount that the retired member was receiving
34 shall be paid to the surviving retired member or the
35 surviving option beneficiary.

36 (4) Option 5. The modified retirement allowance shall
37 be paid to the retired member as long as both the retired
38 member and the option beneficiary are living. Upon the
39 death of either the retired member or the option
40 beneficiary, an allowance equal to one-half of the

1 modified amount that the retired member was receiving
2 shall be paid to the surviving retired member or surviving
3 option beneficiary.

4 (5) Option 6. The modified retirement allowance shall
5 be paid to the retired member and upon the retired
6 member's death, an allowance equal to the modified
7 amount the retired member was receiving shall be paid
8 to the option beneficiary. However, if the option
9 beneficiary predeceases the retired member, the
10 retirement allowance without modification for the option
11 shall be payable to the retired member.

12 (6) Option 7. The modified retirement allowance shall
13 be paid to the retired member and upon the retired
14 member's death, an allowance equal to one-half of the
15 modified amount the retired member was receiving shall
16 be paid to the option beneficiary. However, if the option
17 beneficiary predeceases the retired member, the
18 retirement allowance without modification for the option
19 shall be payable to the retired member.

20 (7) Option 8. (A) Any member prior to the effective
21 date of the member's retirement may designate multiple
22 option beneficiaries. The member who has designated
23 more than one option beneficiary shall select an option
24 for each beneficiary designated that would provide an
25 actuarially modified retirement allowance payable
26 throughout the ~~life lives~~ of the member and ~~his or her~~ *the*
27 *member's* option beneficiaries.

28 (B) The modified retirement allowance shall be paid
29 to the retired member as long as the retired member and
30 at least one of the option beneficiaries are living. Upon
31 the retired member's death, an allowance shall be paid to
32 each surviving option beneficiary in accordance with the
33 option elected respective to that beneficiary. However,
34 if one or more of the option beneficiaries predeceases the
35 retired member, the retired member's allowance shall be
36 adjusted in accordance with the option elected for the
37 deceased beneficiary. The member shall determine the
38 percentage of the unmodified allowance that will be
39 modified by the election of Option 2, Option 3, Option 4,
40 Option 5, Option 6, or Option 7 under this option, the



1 aggregate of which shall be no greater than 100 percent
2 of the member's unmodified allowance. The election of
3 this option is subject to approval by the board.

4 (b) The option beneficiary, for purposes of this
5 section, shall have been designated by the member on a
6 form prescribed by the system and duly executed and
7 filed with the system at the time of the member's
8 retirement.

9 (c) A member may revoke or change an election of an
10 option at any time prior to the effective date of the
11 member's retirement *under this part*.

12 (d) This section shall become operative on January 1,
13 2000.

14 SEC. 58. Section 24305.5 of the Education Code is
15 amended to read:

16 24305.5. (a) An option elected under Section 24300
17 may be canceled by a retired member if the option
18 beneficiary is not the retired member's spouse or former
19 spouse. A retired member may cancel the option before
20 or after issuance of the first retirement allowance
21 payment and shall designate his or her spouse as the new
22 option beneficiary and the same or a different joint and
23 survivor option described in Section 24300.

24 (b) The retired member shall notify the board, in
25 writing on a form provided by the system, of the
26 designation of the new option beneficiary. *Notification*
27 *shall include a certified copy of the marriage certificate*
28 *and a properly executed form for the change.*

29 (c) The effective date of the new election shall be six
30 months following the date notification is received by the
31 board, provided both the retired member and the new
32 designated option beneficiary are both living.

33 (d) The selection of the new option beneficiary and
34 the new option under this subdivision and Section 24300
35 ~~is shall be~~ subject to ~~an a further~~ actuarial modification ~~in~~
36 ~~the amount~~ of the modified *retirement* allowance.

37 ~~However, In no event may a retired member may not~~
38 elect a joint and survivor option that would result in any
39 additional liability to the fund. Modification of the
40 retirement allowance because of the new option

1 beneficiary and the new option, shall be based on the ages
2 of the retired member and the new option beneficiary as
3 of the effective date of the new election.

4 SEC. 59. Section 24306 of the Education Code is
5 amended to read:

6 24306. (a) (1) If an option beneficiary designated in
7 the election of an Option 2, Option 3, Option 4, or Option
8 5, or in the election of Option 2, Option 3, Option 4, or
9 Option 5 under Option 8, predeceases the retired
10 member, the retired member may designate either or
11 both of the following:

12 (A) A new option beneficiary.

13 (B) A different joint and survivor option described in
14 Section 24300.

15 (2) The effective date of the change shall be ~~one year~~
16 *six months* following the date notification is received by
17 the board, provided both the retired member and the
18 designated option beneficiary are then living.
19 Notification shall include proof of death of the
20 predeceased beneficiary and a properly executed form
21 for the change.

22 (3) The selection of the new joint and survivor option
23 under this subdivision and Section 24300 is subject to a
24 further actuarial modification of the modified retirement
25 allowance. In no event may a retired member elect a joint
26 and survivor option that would result in any additional
27 liability to the fund.

28 (b) If an option beneficiary designated in the election
29 of an Option 6 or Option 7 or in the election of Option 6
30 or Option 7 under Option 8, pursuant to Section 24300 or
31 24307 predeceases the retired member, that portion of
32 the retirement allowance attributable to Option 6 or
33 Option 7 without modification for the option shall be
34 payable to the retired member upon notification to the
35 board and shall commence to accrue to the retired
36 member as of the day following the date of the death of
37 the option beneficiary. Notification to the board shall
38 include proof of death of the beneficiary.

39 (c) This section shall become operative on January 1,
40 2000.

1 SEC. 60. Section 24307 of the Education Code is
2 amended to read:

3 24307. (a) A member who qualifies to apply for
4 retirement under Section 24201 or 24203 may make a
5 preretirement election of an option, as provided in
6 Section 24300 without right of revocation or change after
7 the effective date of retirement, except as provided in
8 this part. The preretirement election of an option shall
9 become effective on the date ~~the election~~ *a properly*
10 *executed form prescribed by the system* is signed,
11 providing the election is received in the system's office in
12 Sacramento within 30 days after the date of signature.

13 (b) A member who ~~elects~~ *makes* a preretirement
14 election of an Option 2, Option 3, Option 4, Option 5,
15 Option 6, or Option 7 may subsequently make a
16 preretirement election of Option 8. The member may
17 retain the same option and the same option beneficiary
18 as named in the prior preretirement election, as an option
19 under Option 8.

20 (c) Upon the member's death, prior to the effective
21 date of retirement, the beneficiary who was designated
22 under the option elected and who survives shall receive
23 an allowance calculated under the option, ~~upon~~ *under*
24 the assumption that the member retired for service on
25 the date of death. The payment of the allowance to the
26 option beneficiary shall be in lieu of the family allowance
27 provided in Section 23804, the payment provided in
28 paragraph (1) of subdivision (a) of Section 23802, the
29 survivor benefit allowance provided in Section 23854, and
30 the payment provided in subdivisions (a) and (b) of
31 Section 23852, except that if the beneficiary dies before all
32 of the member's accumulated retirement contributions
33 are paid, the balance, if any, shall be paid to the estate of
34 the person last receiving or entitled to receive the
35 allowance. The accumulated annuity deposit
36 contributions and the death payment provided in
37 Sections 23801 and 23851, shall be paid to the beneficiary
38 in a lump sum.

39 (d) If the member subsequently retires for service,
40 and the elected option has not been canceled pursuant to

1 Section 24309, a modified service retirement allowance
2 computed under Section 24300 and the option elected
3 shall be paid.

4 (e) The amount of the service retirement allowance
5 prior to applying the option factor shall be calculated as
6 of the earlier of the member's age at death before
7 retirement, or age on the last day of the month in which
8 the member requested service retirement be effective.
9 The modification of the service retirement allowance
10 under the option elected shall be based on the ages of the
11 member and the beneficiary designated under the
12 option, at the date the election was signed.

13 (f) A member who terminates the service retirement
14 allowance pursuant to Section 24208 shall not be eligible
15 to file a preretirement election of an option until one
16 calendar year elapses from the date the allowance is
17 terminated.

18 (g) The system shall inform members who are
19 qualified to make ~~application for~~ a preretirement
20 election of an option, through the annual statements of
21 account, that the *election of an option is available can be*
22 *made.*

23 (h) This section shall become operative on January 1,
24 2000.

25 SEC. 61. Section 24600 of the Education Code is
26 amended to read:

27 24600. (a) A retirement allowance under this part
28 begins to accrue on the effective date of the member's
29 retirement and ceases on the earlier of the day of the
30 member's death or the day on which the retirement
31 allowance terminated for a reason other than the
32 member's death.

33 (b) A retirement allowance payable to an option
34 beneficiary under this part begins to accrue on the day
35 following the day of the retired member's death and
36 ceases on the day of the option beneficiary's death.

37 (c) A disability allowance under this part begins to
38 accrue on the effective date of the member's disability
39 and ceases on the earlier of the day of the member's death

1 or the day on which the disability allowance terminated
2 for a reason other than the member's death.

3 (d) A family allowance under this part begins to
4 accrue on the day following the day of the member's
5 death and ceases on the day of the event that terminates
6 eligibility for the allowance.

7 (e) A survivor benefit allowance payable to a
8 surviving spouse under this part pursuant to Chapter 23
9 (commencing with Section 23850) begins to accrue on
10 the day the member would have attained 60 years of age
11 or on the day following the day of the member's death, as
12 elected by the surviving spouse, and ceases on the day of
13 the surviving spouse's death.

14 (f) A child's portion of an allowance under this part
15 begins to accrue on the effective date of that allowance
16 and ceases on the earlier of either the termination of the
17 child's eligibility or the termination of the allowance. An
18 allowance payable because of a full-time student shall
19 terminate on the first day of the month following the end
20 of the school quarter or semester that is in progress in the
21 month the full-time student attains 22 years of age. Any
22 adjustment to an allowance because of a full-time
23 student's periods of nonattendance shall be made as
24 follows: the allowance shall cease on the first day of the
25 month in which return to full-time attendance was
26 required and shall begin to accrue again on the first day
27 of the month in which full-time attendance resumes.

28 (g) Supplemental payments issued under this part
29 pursuant to Sections 24701, 24702, and 24703 to retired
30 members, disabled members, and beneficiaries shall
31 begin to accrue pursuant to Sections 24701, 24702, and
32 24703 and shall cease to accrue as of the termination dates
33 specified in subdivisions (a) to (f), inclusive.

34 (h) Notwithstanding any other provision of this part or
35 other law, distributions from the plan with respect to the
36 Defined Benefit Program shall be made in accordance
37 with Section 401(a)(9) of the Internal Revenue Code of
38 1986, as amended, including the incidental death benefit
39 requirements of Section 401(a)(9)(G) and the
40 regulations thereunder, and the required beginning date



1 of benefit payments that represent the entire interest of
2 the member in the plan with respect to the Defined
3 Benefit Program shall be as follows:

4 (1) In the case of a refund of contributions, as
5 described in Chapter 12 (commencing with Section
6 23100) of this part, not later than April 1 of the calendar
7 year following the later of (A) the calendar year in which
8 the member attains 70 $\frac{1}{2}$ years of age or (B) the calendar
9 year in which the member terminates employment
10 within the meaning of subdivision (i).

11 (2) In the case of a retirement allowance, as defined in
12 Section 22150, beginning not later than April 1 of the
13 calendar year following the later of (A) the calendar year
14 in which the member attains 70 $\frac{1}{2}$ years of age or (B) the
15 calendar year in which the member terminates
16 employment within the meaning of subdivision (i), to
17 continue over the life of the member or the lives of the
18 member and the member's option beneficiary, or over
19 the life expectancy of the member or the life expectancy
20 of the member and the member's option beneficiary.

21 (i) For purposes of subdivision (h), "terminates
22 employment" means the later of the termination of
23 employment subject to coverage by the ~~plan~~ *Defined*
24 *Benefit Program* or the termination of employment in a
25 position requiring or permitting membership in another
26 public retirement system in this state the compensation
27 from which may be included in final compensation under
28 Section 22127.

29 (j) This section shall become operative on January 1,
30 2002.

31 SEC. 62. Section 26135 of the Education Code is
32 amended to read:

33 26135. "Plan year" means the ~~period commencing on~~
34 ~~July 1 and ending on June 30 in the following year~~
35 *calendar, policy, or fiscal year on which the records of the*
36 *plan are kept, with respect to the Cash Balance Benefit*
37 *Program. The board by means of plan amendment shall*
38 *determine the plan year.*

39 SEC. 63. Section 26215 of the Education Code is
40 amended to read:

1 26215. (a) Information filed with the system by a
2 participant or beneficiary is confidential and shall be used
3 by the system for the sole purpose of carrying into effect
4 the provisions of this part. No official or employee of the
5 system who has access to the individual records of a
6 participant or beneficiary shall divulge any confidential
7 information concerning those records to any person
8 except in the following instances:

9 (1) To the participant or beneficiary to whom the
10 information relates.

11 (2) To the authorized representative of the
12 participant or beneficiary.

13 (3) To the governing board of the participant's
14 current or former employer.

15 (4) To any department, agency, or political
16 subdivision of this state.

17 (5) To other individuals as necessary to locate a person
18 to whom a benefit may be payable.

19 (6) *Pursuant to subpoena.*

20 (b) Information filed with the system in a beneficiary
21 designation form may be released after the death of the
22 participant to those persons who may provide
23 information necessary for the distribution of benefits.

24 (c) The information is not open to inspection by
25 anyone except the board and its officers and employees
26 of the system, and any person authorized by statute to
27 make inspections.

28 SEC. 64. Section 26301 of the Education Code is
29 amended to read:

30 26301. (a) Employers shall report, on a form
31 prescribed by the system, contributions paid on behalf of
32 each participant in each pay period, along with all other
33 information required by the system no later than—~~15~~
34 ~~calendar~~ 10 working days following the last day of the pay
35 period in which the salary was—~~paid~~ *earned*, and the report
36 ~~is shall be~~ delinquent immediately thereafter.

37 (b) The board may assess a penalty against the
38 employer for a report submitted late or in an
39 unacceptable form.

1 SEC. 65. Section 26303 of the Education Code is
2 amended to read:

3 26303. (a) Employers shall transmit to the plan the
4 employee contributions and employer contributions with
5 respect to the Cash Balance Benefit Program for salary
6 paid to each participant during the pay period no later
7 than ~~five~~ 10 working days following the last day of the pay
8 period in which the salary was ~~paid~~ earned.

9 (b) Payments shall be delinquent on the ~~sixth~~ 11th
10 working day thereafter, and interest shall begin to accrue
11 at the minimum interest rate from that day until payment
12 *for the contribution report* is received *in full* by the plan.
13 ~~Interest~~ The board may collect interest for late payment
14 ~~from the employer~~ under this subdivision ~~shall be due~~
15 ~~from the employer.~~

16 SEC. 66. Section 26401.5 of the Education Code is
17 amended to read:

18 26401.5. (a) A member of the Defined Benefit ~~Plan~~
19 *Program* who is employed by more than one employer to
20 perform creditable service for less than 50 percent of the
21 full-time equivalent for the position with each employer
22 shall not be eligible to make an election as provided in
23 Section 26401 unless and until all employers by which the
24 member is employed to perform creditable service
25 provide the benefits of this part for their employees.

26 (b) If a member of the Defined Benefit ~~Plan~~ *Program*
27 who pursuant to subdivision (a) has made an election as
28 provided in Section 26401 and is subsequently employed
29 to perform creditable service for an employer that does
30 not provide the benefits of this part for its employees,
31 contributions shall no longer be made to the Cash Balance
32 ~~Plan~~ *Benefit Program* on his or her behalf and creditable
33 service performed for all employers shall be subject to
34 coverage ~~by~~ under the Defined Benefit ~~Plan~~ *Program*,
35 with no subsequent right of election pursuant to Section
36 26401 or subdivision (a).

37 SEC. 67. Section 26504 of the Education Code is
38 amended to read:

39 26504. The employer may enter into a collective
40 bargaining agreement to pay a different employer

1 contribution rate and a different employee contribution
2 rate, provided all of the following conditions are met:

3 (a) The sum of the employee contributions and
4 employer contributions for each participant shall equal or
5 exceed 8 percent of salary.

6 (b) The employee contribution rate ~~shall not~~ may
7 exceed the employer contribution rate *but in no event*
8 *shall the employer contribution rate be less than 4*
9 *percent.*

10 (c) The employee contribution rate and employer
11 contribution rate shall be the same for each participant
12 employed by the employer.

13 (d) The employee contribution rate and employer
14 contribution rate shall be in one-quarter percent
15 increments.

16 (e) The employee contribution rate and employer
17 contribution rate as determined under the collective
18 bargaining agreement shall become effective on the first
19 day of the plan year following notification to the system
20 and shall remain in effect for at least one plan year.
21 However, the employee contribution rate and the
22 employer contribution rate as determined under the
23 collective bargaining agreement may become effective
24 as of the first day of the plan year in which notice is given
25 if it is so provided in the collective bargaining agreement
26 and if a lump-sum contribution is made to the plan equal
27 to the additional employee and employer contributions,
28 if any, that would have been required if the contribution
29 rates had been in effect on the first day of the plan year.
30 Interest shall be credited at the minimum interest rate
31 with respect to the lump-sum contribution commencing
32 with the first month after the contribution is made.

33 (f) The employer has filed notice of the employee
34 contribution rate and the employer contribution rate on
35 a form prescribed by the system.

36 SEC. 68. Section 26603 of the Education Code is
37 amended to read:

38 26603. All employee contributions shall be credited to
39 employee accounts and all employer contributions shall
40 be credited to employer accounts as of the first ~~calendar~~

1 *working day following the date—~~the~~ all contributions to*
2 *fully satisfy the contribution report as submitted by the*
3 *employer are received by the system.*

4 SEC. 69. Section 26604 of the Education Code is
5 amended to read:

6 26604. (a) Beginning June 1, 1996, prior to the Cash
7 Balance Plan becoming effective, and *prior to the*
8 *beginning of each—~~June~~ plan year* thereafter, the board,
9 by plan amendment with respect to the Cash Balance
10 Benefit Program, shall declare the minimum interest rate
11 ~~to be used to credit for crediting~~ employee accounts and
12 employer accounts with respect to the Cash Balance
13 Benefit Program during the *following* plan year
14 ~~beginning July 1.~~

15 (b) ~~Interest~~ *All interest* shall be computed at the
16 minimum interest rate on the balance of the employee
17 account and the employer account ~~as of the first day of~~
18 ~~that month and shall be compounded daily.~~ *Interest*

19 (c) *Interest* for contributions credited during that
20 month to the respective account shall ~~be computed~~
21 *accrue* at the minimum interest rate from *the first*
22 *working day following the date—~~of deposit~~ contributions*
23 *are received in full by the system pursuant to Section*
24 *26603. Interest shall be credited to the respective account*
25 ~~as of the last day of that month.~~

26 ~~(e)~~

27 (d) Interest shall not be credited to employee
28 accounts and employer accounts that have been
29 transferred to the Annuitant Reserve for payment of an
30 annuity.

31 SEC. 70. Section 27410 of the Education Code is
32 amended to read:

33 27410. (a) The nonparticipant spouse who is
34 awarded separate nominal accounts shall have the right
35 to designate, pursuant to Sections 27100 to 27102,
36 inclusive, a beneficiary or beneficiaries to receive the
37 ~~accounts~~ *amounts* credited to the separate nominal
38 accounts of the nonparticipant spouse on his or her date
39 of death, and any annuity attributable to the separate

1 nominal accounts which is unpaid on the date of the death
2 of the nonparticipant spouse.

3 (b) This section shall not be construed to provide the
4 nonparticipant spouse with any right to elect a joint and
5 survivor annuity pursuant to paragraphs (3) and (4) of
6 subdivision (b) of Section 26807.

7 SEC. 71. Section 44494 of the Education Code is
8 amended to read:

9 44494. (a) On or before September 1 of each year,
10 participating school districts which receive funding
11 pursuant to subdivision (a) of Section 44492 shall allocate
12 no less than four thousand dollars (\$4,000) to provide each
13 qualified mentor with an additional annual stipend over
14 and above the regular salary to which he or she is entitled.
15 The amount of the annual stipend shall be four thousand
16 dollars (\$4,000) for a full school year of service as a
17 mentor, or a pro rata share of that amount for less than a
18 full school year of service as a mentor, except that
19 participating school districts which receive funding
20 pursuant to subdivision (b) of Section 44492 shall allocate
21 the full amount so received to provide a qualified mentor
22 with an additional annual stipend over and above the
23 regular salary to which he or she is entitled. This stipend
24 shall not be counted as salary or wages for purposes of
25 calculating employer—~~contribution—rates~~ and employee
26 *contributions* or employee benefits under the *Defined*
27 *Benefit Program of the State Teachers' Retirement*
28 *System Plan*.

29 (b) A mentor may propose that the district allocate all
30 or part of the stipend for his or her professional growth or
31 release time.

32 (c) The governing board may designate certificated
33 employees as mentor teachers pursuant to Section 44491
34 and pay these persons the additional annual stipend
35 authorized under subdivision (a) for a period not to
36 exceed three consecutive school years. Upon completing
37 three years as a mentor teacher, an individual may be
38 reviewed and renominated.

39 (d) The subject of participation by a school district or
40 an individual certificated classroom teacher in a mentor

1 teacher program shall not be included within the scope
2 of representation in collective bargaining among a public
3 school employer and eligible employee organizations.

4 SEC. 72. Section 20639 of the Government Code is
5 amended to read:

6 20639. The compensation earnable during any period
7 of service as a member of the Judges' Retirement System,
8 the Legislators' Retirement System, or the *Defined*
9 *Benefit Program of the State Teachers' Retirement*
10 ~~System Plan~~ shall be considered compensation earnable
11 as a member of this system for purposes of computing
12 final compensation for the member, if he or she retires
13 concurrently under both systems.

14 A member shall be deemed to have retired
15 concurrently under this system and under *the Defined*
16 *Benefit Program of the State Teachers' Retirement*
17 ~~System Plan~~, if the member is enrolled as a ~~disabiltant~~
18 *disabled member* under the *Defined Benefit Program of*
19 *the State Teachers' Retirement—System Plan* and for
20 retirement under this system on the same effective date.

21 SEC. 73. Any section of any act enacted by the
22 Legislature during the 1999 calendar year that takes
23 effect on or before January 1, 2000, and that amends,
24 amends and renumbers, adds, repeals and adds, or repeals
25 a section that is amended, amended and renumbered,
26 repealed and added, or repealed by this act, shall prevail
27 over this act, whether that act is enacted prior to, or
28 subsequent to, the enactment of this act. The repeal, or
29 repeal and addition, of any article, chapter, part, title, or
30 division of any code by this act shall not become operative
31 if any section or any other act that is enacted by the
32 Legislature during the 1999 calendar year and takes effect
33 on or before January 1, 2000, amends, amends and
34 renumbers, adds, repeals and adds, or repeals any section
35 contained in that article, chapter, part, title, or division.